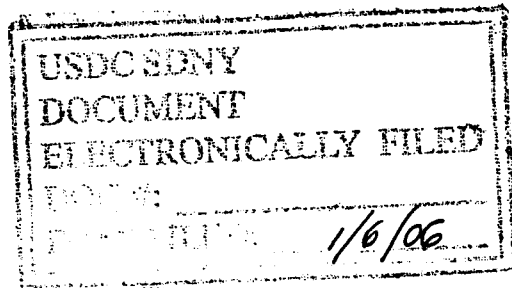


MEMO ENDORSED

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JAN - 5 2006

Via Fax: 212 805 6712
Honorable Kevin N. Fox
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

January 5, 2006

Re: Lewis v. The City of New York
Index #: 04-CV-3696

Honorable Kevin N. Fox:

As discussed with your law clerk today, Judge Berman has ruled, or rather, has declined to rule on the parties request to extend discover in this matter. Judge Berman's ruling was previously faxed to your Honor.

Therefore, in order to make another appeal to the District Court, the parties require the reasons for your Honor's decision to deny the parties their joint request to extend discovery.

Although the parties initially requested 60 days to complete discovery, the parties are now requesting until January 31, 2006 to complete discovery. As indicated previously, several items of discovery remain outstanding, despite the parties diligent and consistent attempts to obtain discovery. For example, the complete criminal trial transcript and the CCRB records which your Honor recently ordered produced have not yet been produced. This week, defense counsel produced the names and addresses of approximately 50 witnesses who need to be contacted for witness statements. These witnesses were never made available previously. The plaintiff's deposition was completed, however none of the defendants have been deposed as of this date.

Therefore there is good reason, in the interests of judicial integrity to extend the discovery deadline in this matter. In the alternative, plaintiff's counsel seeks to strike defendant's answer for failing to timely provide discovery. Defense counsel consents to the request for a discovery extension, but not the striking of the City's answer.

As you are aware, the current discovery deadline is January 9, 2006. The parties would appreciate a prompt response if possible. Thank-you for your consideration.

1/5/06
Application granted.
The settlement conference previously scheduled for January 12, 2006, is adjourned sine die. If no disposition motion is filed, the parties shall submit their joint pretrial order to the Court on or before March 2, 2006. SO ORDERED:

DAVID A. ZELMAN
J. S.M.J.

Very Truly Yours:

David A. Zelman

Via Fax: Sheryl Bruzzese, Esq.